

1 **Noreen Rucinski**
1 Dir. Strategic Business Development
1 Schneider Rucinski Enterprises
2 3344 N Mt. View Dr
2 San Diego CA 92116
3 619-282-7977
3 noreenr@cox.net
4 Plaintiff in Pro Per
4 Appearing pro se
5
6

FILED
08 APR 11 PM 3:08
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: *[Signature]*
DEPUTY

7 **UNITED STATES DISTRICT COURT**

8 **IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

9 SCHNEIDER RUCINSKI ENTERPRISES,)

10 Plaintiff,)

11 vs.)

12 TOUCH ASIA OUTSOURCING
12 SOLUTIONS, INC., dba TOUCH ASIA
13 CALL CENTER, INC.; RUDY NGAW;
13 STRATASOFT, INC. PACIFIC CALL
14 CENTERES; LANE MCCARTY
14 individually and as an employee and/or
15 agent of STRATASOFT, INC.; JASON
15 PACE individually and as an employee
16 and/or agent of STRATASOFT, INC.;
16 MIKE BRIDGES individually and as an
17 employee and/or agent of STRATASOFT,
17 INC.; MICHEL BRIDGES, JR.,
18 individually and as an employee and/or
18 agent of STRATASOFT, INC.; INX, INC.,
19 a Texas Corporation formerly known as I-
19 SECTOR CORPORATION; COLO 6 LLC,
20 a California Corporation, and NAVROZ
20 HAJI, an individual, and DOES 1 through
20 20, inclusive,

21 Defendants.

Case No.: 08 CV 0138 WQH POR

Date: May 19 209
Time: 11:00 AM

Judge: Hon. William Q Hayes

PLANITIFF'S EX PARTE
MOTION TO AN ORDER TO ENTER
INTO DEFAULT ON USCOLO DBA
UCOLO6 LLC

"Oral argument not required unless requested
by the courts"

23 **PLANITIFF'S EX PARTE MOTION TO AN ORDER**
23 **TO ENTER INTO DEFAULT ON USCOLO DBA UCOLO6 LLC**

25
26 The Plaintiff Schneider Rucinski Enterprises (SRE) ("Plaintiff") requested a
27 Ex parte motion for the Judge to Order the clerk of the courts to ENTER INTO
28 DEFAULT. Plaintiff hereby requests the Clerk of this Court to enter a default

against the Defendants, USCOLO LLC/DBA UCCOLO6., on the grounds that the
 1 Defendants have failed to answer or otherwise respond to the Plaintiff's
 2 Complaint on file herein in accordance with the *Civil Local Rule 3-9(b)*,
 3 a corporation may **appear** in the federal courts only through licensed *counsel*
 4 also, *The rules of procedure pursuant to Rule 55(a) of the Federal Rules of Civil*
 5 *Procedure, Code of Civil Procedure*¹ section 435 entirely on the grounds a
 6 *corporation cannot file a pleading in propria , and 21 Cal.3d 724, 730, ., an officer*
 7 *or director, is not an attorney, that person would be engaged in the unlicensed*
 8 *practice of law, voiding and nullifying any reponse. Making USCOLO's response*
 9 *void and untimely. Black's Law Dict. (7th ed. 1999), p. 1568, col. 1.)*
 10 Plaintiff ("SRE") respectfully submits this Ex parte request to enter into default,
 11 denying the void defendant's Answer or response to Complaint.

11 1. Plaintiff filed their original Petition with this court on January 26 2008.
 12
 13 Plaintiff served Defendants by certified process server on or about February 1,
 14 2008, attached hereto as Exhibit "A" is plaintiff's certificate of service and
 15 acceptance of documents by manager Rick Fisch.

16 2. Defendant's Manager, Rick Fisher acknowledges receipt of service in
 17 compliance of the Rules of Procedures for USCOLO LLC/DBA UCOLO6 LLC
 18 (exhibit B) and has submitted an answer to the courts February 21 2008.
 19 however, defendants' reply is defective (exhibit C) by reasons

20 1a. Of the corporation's lack of power to represent itself in an action in
 21 court." *Paradise* state cases expressing the rule that a corporation can only be
 22 represented by an attorney. *Land Management v. Department of Envir. Protec.*
 23 (1977 Me.) 368 A.2d 602 *Paradise*'s summary conclusion that a notice of appeal
 24 (or, impliedly, another document) filed on behalf of a corporation by a
 25 nonattorney is automatically void, that is, of no legal effect whatever, an absolute
 26 nullity. (*Black's Law Dict. (7th ed. 1999), p. 1568, col. 1.)*

27

28 1 All further section references are to the Code of Civil Procedure.

1 2a. It must be represented by licensed counsel in proceedings before
2 courts of record. (*Caressa Camille, Inc. v. Alcoholic Beverage Control Appeals Bd.*
3 (2002) 99 Cal.App.4th 1094, 1101-1103 & citations therein

4 3a. *Code of Civil Procedure² section 435, entirety on the grounds a*
5 *corporation cannot file a pleading in propria persona.*

6
7 2. If the corporate agent who would likely appear on behalf of the corporation in
8 court proceedings, e.g., an officer or director, is not an attorney, that person
9 would be engaged in the unlicensed practice of law. (*Merco Constr. Engineers,*
10 *Inc. v. Municipal Court* (1978) 21 Cal.3d 724, 730 (*Merco*).) *Land Management v.*
11 *Department of Envir. Protec.* (1977 Me.) 368 A.2d 602 Taking in to consideration
12 all of the above the defendants are a Corporation, and therefore must comply
13 with the rules of representation of counsel in matters before this court.
14 Defendants reply is signed by a manager, not licensed counsel. Therefore, the
15 plaintiff requests that defendants reply be considered "null and void" and
16 granted default for response not be considered a timely response or answer to
17 complaint.

18 3. Defendants USCOLO and COLO6 in last 6 years has had many court
19 actions pressed upon the company, which we would and will show at trial,
20 including one other one lawsuit, I am aware of and was made part of by the state
21 of California. The state filed a complaint against this company with the same
22 directors and a managers, it answered with an attorney who still shows as
23 attorney or record. Mr. Oberg. Yet in this matter to further add to the courts
24 paper work and lack of respect. Has filed a response with no regard of the courts
25 rules, with full knowledge of their identity as a corporation as they have done on
26 previous summons and documents from the courts. Therefore it is my request,

28

² All further section references are to the Code of Civil Procedure.

1 the court should not allow leave of the court for an opportunity of answer and
2 enter in to default .

3

4 4. I would like to make the courts aware, On February 4 and again on
5 March 9, 2008. I discussed this with the management of USColo6 and supposed
6 Attorney, not yet to have appeared. On February 4 2008 I was told they had an
7 attorney and would be sending a response. It is now April 10, 2008, with no
8 response from an attorney on file or appearance of.

9

10 4. Pray for relief, to be determined for losses and return of funds paid for
11 said equipment, losses for profits, losses for resale of equipment and or usage or
12 property and losses property held in facilities in the amount of \$555,000.00.

13

14

15 Wherefore, premises considered, the Plaintiff hereby requests the Clerk of
16 this Court to enter into default (*The rules of procedure pursuant to Rule 55(a) of*
the Federal Rules of Civil Procedure) the complaint dated January 26, 2008
18 against the Defendant's USCOLO LLC/DBA UCLOLO6. a Nevada Corporation.

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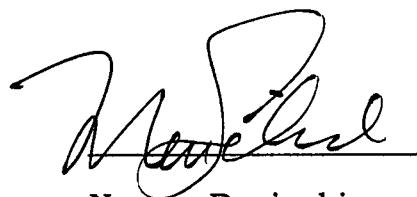
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Respectfully submitted,

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Noreen Rucinski

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On behalf of Schneider Rucinski Enterprises

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5 **Points and Authorities**
6

7 *Code of Civil Procedure³ section 435, entirety on the grounds a corporation*
8 *cannot file a pleading in propria persona* See, e.g., *Housing Authority of Cook*
9 *County v. Tonsul* (Ill. 1983) 450 N.E.2d 1248: judgment void even if layperson merely signs
complaint and all other appearances are by attorney; *Land Management v. Department of*
Envir. Protec. (1977 Me.) 368 A.2d 602: complaint signed by layperson a nullity and action
dismissed; *Massongill v. McDevitt* (1989 Okla.) 828 P.2d 438, same; *Tracy-Burke v.*
Department of Employment Sec. (Utah 1985) 699 P.2d 687: petition for review signed by
nonattorney corporate officer dismissed, .

12 *Waite v. Carpenter* (Neb. 1992) 496 N.W.2d 1: trial court's decision to refuse
13 corporation opportunity to obtain attorney measured by abuse of discretion
standard;
14 *Land Management v. Department of Envir. Protec.* (1977 Me.) 368 A.2d 602:
complaint signed by layperson a nullity and action dismissed; *Massongill v.*
15 *McDevitt* (1989 Okla.) 828 P.2d 438, same; *Tracy-Burke v. Department of*
16 *Employment Sec.* (Utah 1985) 699 P.2d 687: petition for review signed by
nonattorney corporate officer dismissed,
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document :

MOTION FOR DEFAULT JUDGEMENT

A copy was served as follows:

[X] **BY E-MAIL:** I sent a true copy via e-mail to all known parties of record who have provided e-mail addresses.

[X] **BY MAIL:** I sent a true copy via first-class mail to all known parties of record.

Executed in San Diego Ca , on the 11th day of April 2008 .

Dated: April 10,, 2008

SCHNEIDER RUCINSKI ENTERPRISES

By: 
Fred Rucinski,
An Individual